

**IN THE COUNTY COURT FOR THE SECOND JUDICIAL DISTRICT  
HARRISON COUNTY, MISSISSIPPI**

**Sarah Olier**

**PLAINTIFF**

**VS.**

**CASE # D2402-11-996**

**Wal-Mart Stores, Inc**

**DEFENDANT**

**CLERK'S CERTIFICATE**

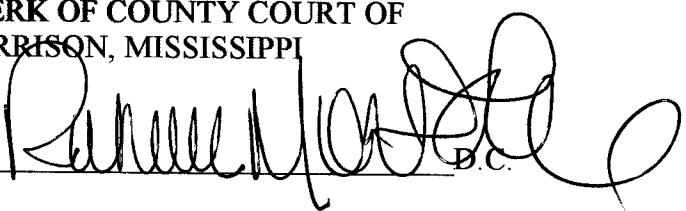
**STATE OF MISSISSIPPI  
COUNTY OF HARRISON**

I, Gayle Parker, the duly elected, qualified and acting County clerk of Harrison County, Mississippi, do hereby certify that the foregoing pages are and constitute a full, true, and correct copy of the proceedings in regard to the above-entitled case, as of this day.

**GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE this the**  
22 day of February 2012.



**GAYLE PARKER  
CLERK OF COUNTY COURT OF  
HARRISON, MISSISSIPPI**

By: 

Case: 24CO2:11-cv-00996 Document #: 8 Filed: 02/15/2012 Page 1 of 2

IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI  
SECOND JUDICIAL DISTRICT

SARAH OLIER PLAINTIFF

VERSUS CAUSE NO.: D2402-11-996

WALMART STORES, INC. DEFENDANT

**NOTICE OF SERVICE OF RESPONSES TO REQUESTS FOR ADMISSIONS**

NOTICE IS HEREBY GIVEN, Plaintiff in the above styled and numbered Cause has this date served the Defendant the following:

1. Plaintiff's Response to Defendant's Requests for Admissions.

RESPECTFULLY SUBMITTED, this the 15th day of February 2012.

SARAH OLIER, PLAINTIFF

By: /s/ Walter L. Nixon Jr.  
WALTER L. NIXON JR., ESQ.

*PREPARED AND PRESENTED BY:*

WALTER L. NIXON, JR., ESQUIRE  
MS BAR NO: 3865  
POST OFFICE BOX 409  
BILOXI, MS 39533  
TELEPHONE: 228-435-7733  
FACSIMILE: 228-435-7737

Case: 24CO2:11-cv-00996 Document #: 8 Filed: 02/15/2012 Page 2 of 2

**CERTIFICATE OF SERVICE**

I, Walter L. Nixon Jr., do hereby certify that I have this day mailed a true and correct copy of the above and foregoing Notice of Service to Defendant's counsel via U.S. Mail to the following address:

W. Pemble Delashmet  
Delashmet & Marchand, P.C.  
P.O. Box 2047  
Mobile, AL 36652

/s/ *Walter L. Nixon Jr.*  
WALTER L. NIXON JR.

WALTER L. NIXON, JR., ESQUIRE  
MS BAR No: 3865  
POST OFFICE Box 409  
BILOXI, MS 39533  
TELEPHONE: 228-435-7733  
FACSIMILE: 228-435-7737

Case: 24CO2:11-cv-00996 Document #: 7 Filed: 02/14/2012 Page 1 of 2

IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI  
SECOND JUDICIAL DISTRICT

SARAH OLIER PLAINTIFF  
VERSUS CAUSE NO.: D2402-11-996  
WALMART STORES, INC. DEFENDANT

NOTICE OF SERVICE OF REQUESTS FOR  
ADMISSIONS, INTERROGATORIES, AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS PROPOUNDED TO DEFENDANT

NOTICE IS HEREBY GIVEN, Plaintiff in the above styled and numbered Cause has this date served the Defendant the following:

1. Requests for Admissions;
2. Interrogatories; and
3. Requests for Production of Documents.

RESPECTFULLY SUBMITTED, this the 14th day of February 2012.

SARAH OLIER, PLAINTIFF

By: /s/ Walter L. Nixon Jr.  
WALTER L. NIXON JR., ESQ.

*PREPARED AND PRESENTED BY:*

WALTER L. NIXON, JR., ESQUIRE  
MS BAR No: 3865  
POST OFFICE Box 409  
BILOXI, MS 39533  
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Case: 24CO2:11-cv-00996 Document #: 7 Filed: 02/14/2012 Page 2 of 2

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W. Pemble Delashmet  
Delashmet & Marchand, P.C.  
P.O. Box 2047  
Mobile, AL 36652

Is/ *Walter L. Nixon Jr.*  
WALTER L. NIXON JR.

WALTER L. NIXON, JR., ESQUIRE  
MS BAR NO: 3865  
POST OFFICE Box 409  
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TELEPHONE: 228-435-7733  
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Case: 24CO2:11-cv-00996 Document #: 6 Filed: 02/14/2012 Page 1 of 2

IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI  
SECOND JUDICIAL DISTRICT

SARAH OLIER PLAINTIFF

VERSUS CAUSE NO.: D2402-11-996

WALMART STORES, INC. DEFENDANT

NOTICE OF SERVICE OF REQUESTS FOR  
ADMISSIONS, INTERROGATORIES, AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS PROPOUNDED TO DEFENDANT

NOTICE IS HEREBY GIVEN, Plaintiff in the above styled and numbered Cause has this date served the Defendant the following:

1. Requests for Admissions;
2. Interrogatories; and
3. Requests for Production of Documents.

RESPECTFULLY SUBMITTED, this the 14th day of February 2012.

SARAH OLIER, PLAINTIFF

By: /s/ Walter L. Nixon Jr.  
WALTER L. NIXON JR., ESQ.

*PREPARED AND PRESENTED BY:*

WALTER L. NIXON, JR., ESQUIRE  
MS BAR No: 3865  
POST OFFICE Box 409  
BILOXI, MS 39533  
TELEPHONE: 228-435-7733  
FACSIMILE: 228-435-7737

Case: 24CO2:11-cv-00996 Document #: 6 Filed: 02/14/2012 Page 2 of 2

**CERTIFICATE OF SERVICE**

I, Walter L. Nixon Jr., do hereby certify that I have this day mailed a true and correct copy of the above and foregoing Notice of Service to Defendant's counsel via U.S. Mail to the following address:

W. Pemble Delashmet  
Delashmet & Marchand, P.C.  
P.O. Box 2047  
Mobile, AL 36652

/s/ *Walter L. Nixon Jr.*  
WALTER L. NIXON JR.

WALTER L. NIXON, JR., ESQUIRE  
MS BAR NO: 3865  
POST OFFICE BOX 409  
BILOXI, MS 39533  
TELEPHONE: 228-435-7733  
FACSIMILE: 228-435-7737

Case: 24CO2:11-cv-00996 Document #: 5 Filed: 02/14/2012 Page 1 of 2

IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI  
SECOND JUDICIAL DISTRICT

SARAH OLIER PLAINTIFF

VERSUS CAUSE NO.: D2402-11-996

WALMART STORES, INC. DEFENDANT

NOTICE OF SERVICE OF REQUESTS FOR  
ADMISSIONS, INTERROGATORIES, AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS PROPOUNDED TO DEFENDANT

NOTICE IS HEREBY GIVEN, Plaintiff in the above styled and numbered Cause has this date served the Defendant the following:

1. Requests for Admissions;
2. Interrogatories; and
3. Requests for Production of Documents.

RESPECTFULLY SUBMITTED, this the 14th day of February 2012.

SARAH OLIER, PLAINTIFF

By: /s/ Walter L. Nixon Jr.  
WALTER L. NIXON JR., ESQ.

*PREPARED AND PRESENTED BY:*

WALTER L. NIXON, JR., ESQUIRE  
MS BAR NO: 3865  
POST OFFICE Box 409  
BILOXI, MS 39533  
TELEPHONE: 228-435-7733  
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Case: 24CO2:11-cv-00996 Document #: 5 Filed: 02/14/2012 Page 2 of 2

**CERTIFICATE OF SERVICE**

I, Walter L. Nixon Jr., do hereby certify that I have this day mailed a true and correct copy of the above and foregoing Notice of Service to Defendant's counsel via U.S. Mail to the following address:

W. Pemble Delashmet  
Delashmet & Marchand, P.C.  
P.O. Box 2047  
Mobile, AL 36652

Is/ Walter L. Nixon Jr.  
WALTER L. NIXON JR.

WALTER L. NIXON, JR., ESQUIRE  
MS BAR No: 3865  
POST OFFICE BOX 409  
BILOXI, MS 39533  
TELEPHONE: 228-435-7733  
FACSIMILE: 228-435-7737

**IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI,  
SECOND JUDICIAL DISTRICT**

SARAH OLIER,

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Plaintiff,

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vs.

CASE NO. D240~~Y~~-11-996

WALMART STORES, INC.

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Defendant.

**NOTICE OF SERVICE OF DISCOVERY**

In accordance with the Mississippi Rules of Civil Procedure, Defendant Wal-Mart Stores East, L.P. (incorrectly identified as "WalMart Stores, Inc."), gives notice to the court that the following discovery has been served on the Plaintiff:

1. Wal-Mart's First Set of Interrogatories and Request for Production to Plaintiff;
2. Wal-Mart's Second Set of Discovery to Plaintiff

Respectfully submitted on January 19, 2012.

  
W. PEMBLE DELASHMET (MS #8840)  
wpd@delmar-law.com  
CHAD C. MARCHAND (MS# 102752)  
ccm@delmar-law.com  
Attorneys for Wal-Mart Stores East, LP

OF COUNSEL:

DELASHMET & MARCHAND, P.C.  
Post Office Box 2047  
Mobile, AL 36652  
Telephone: (251) 433-1577  
Facsimile: (251) 433-1578

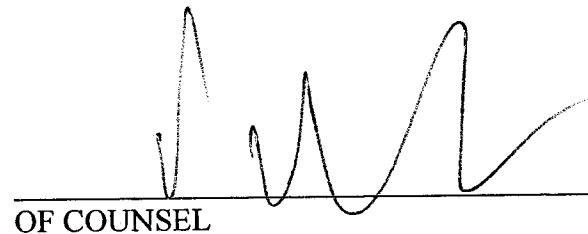
**FILED**  
JAN 20 2012  
GAYLE PARKER  
CLERK OF COURT  
BY: *Ronnie Montreal*

SCANNED

CERTIFICATE OF SERVICE

I hereby certify that I have on this day January 19, 2012, served a copy of the foregoing pleading upon counsel as listed below by depositing the same in the U. S. Mail, postage prepaid and properly addressed.

Walter L. Nixon, Jr.  
Post Office Box 409  
Biloxi, MS 39533



Anne M. Cunningham  
amc@delmar-law.com

DELASHMET  
MARCHAND, P.C.  
ATTORNEYS AT LAW

January 19, 2012

Gayle Parker  
County Court of Harrison County, Mississippi, 2nd Judicial District  
Post Office Box 235  
Biloxi, MS 39533

Re: *Olier, Sarah v. Wal-Mart Stores*  
County Court of Harrison County, Mississippi, 2nd Judicial District  
Case Number: D2401-11-996

Dear Ms. Parker:

Please find enclosed the original answer and notice of service of discovery to plaintiff that I ask you to file in your court. Also enclosed is a copy of each that I request you stamp filed and return in the envelope provided.

Thank you for your assistance in this matter.

Very truly yours,



Anne M. Cunningham  
Paralegal

/amc

Enclosure(s)

**IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI,  
SECOND JUDICIAL DISTRICT**

SARAH OLIER,

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III.

Wal-Mart Stores East, L.P. admits that Plaintiff, Sarah Olier, was on its premises at the Wal-Mart store located in D'Iberville, Mississippi, on or about April 30, 2011, and that Plaintiff was involved in an incident. Wal-Mart is without knowledge and information sufficient to form a belief as to the allegations concerning Plaintiff's status as a "business invitee", the allegations relating to the details of the incident, or the allegations concerning Plaintiff's injuries and damages, and, therefore, must deny the same and demand strict proof thereof. Wal-Mart denies the remaining allegations of this paragraph and demands strict proof thereof.

IV.

Wal-Mart is without knowledge and information sufficient to form a belief as to the allegations concerning Plaintiff's injuries and damages, and, therefore, must deny the same and demand strict proof thereof. Wal-Mart denies the remaining allegations of this paragraph and demands strict proof thereof.

V.

Wal-Mart is without knowledge and information sufficient to form a belief as to the allegations concerning Plaintiff's injuries and damages, and, therefore, must deny the same and demand strict proof thereof. Wal-Mart denies the remaining allegations of this paragraph and demands strict proof thereof.

VI.

Wal-Mart is without knowledge and information sufficient to form a belief as to the allegations concerning Plaintiff's injuries and damages, and, therefore, must deny the same and demand strict proof thereof. Wal-Mart denies the remaining allegations of this paragraph and specifically denies its conduct was the direct and proximate cause of Plaintiff's alleged injuries and damages, if any, and demands strict proof thereof.

VII.

Wal-Mart is without knowledge and information sufficient to form a belief as to the allegations concerning Plaintiff's injuries and damages, and, therefore, must deny the same and demand strict proof thereof. Wal-Mart denies its conduct was the direct and proximate cause of Plaintiff's alleged injuries and damages, if any, and denies it was negligent and demands strict proof thereof. Wal-Mart admits the law imposes certain duties upon it as the operator of a retail establishment, which laws speak for themselves. Wal-Mart denies its conduct constituted negligence, and denies it breached any duty to Plaintiff. Wal-Mart denies the remaining allegations of this paragraph and demands strict proof thereof.

VIII.

Wal-Mart is without knowledge and information sufficient to form a belief as to the allegations concerning Plaintiff's injuries and damages, and, therefore, must deny the same and demand strict proof thereof. Wal-Mart denies the remaining allegations of this paragraph and demands strict proof thereof.

Wal-Mart denies the allegations contained in the unnumbered paragraph following paragraph VIII. which begins "Wherefore" and specifically denies that the Plaintiff is entitled to any recovery whatsoever.

## **AFFIRMATIVE DEFENSES**

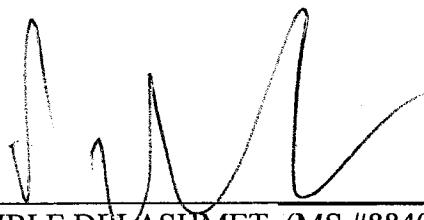
1. Defendant denies each and every material allegation of Plaintiff's Complaint not otherwise addressed and demands strict proof thereof.
2. Plaintiff was guilty of negligence that caused or contributed to cause the injuries about which she complains, and, therefore, under Mississippi law is not entitled to recover any damages.
3. The alleged hazard about which Plaintiff complains was open and obvious thereby obviating a duty to warn and precluding Plaintiff from recovering damages under Mississippi law.
4. Defendant did not have notice of the alleged hazard about which Plaintiff complains, and therefore, under Mississippi law Defendant owed Plaintiff no duty to eliminate the alleged hazard.
5. No act or omissions of this defendant was the proximate cause of any injury to Plaintiff.
6. Defendant owed Plaintiff no duty as alleged, the breach of which caused or contributed to the cause of the Plaintiff's injuries.
7. Plaintiff's injuries and damages were the result of an intervening and/or superseding cause; therefore, Plaintiff should not recover from Defendant.
8. Defendant respectfully demands credit for any and all monies paid to, or on behalf of, Plaintiff from any and all collateral sources.
9. Plaintiff, in whole or in part, failed to mitigate her alleged damages, and therefore is precluded from recovery.
10. Plaintiff's alleged damages are the result of a condition and/or injury which predates the incident made the basis of her Complaint and having no causal relationship with this defendant.

11. Plaintiff's complaint against Wal-Mart Stores, Inc., fails to state a claim against it upon which relief can be granted.

12. Defendant reserves the right to add and/or supplement these affirmative defenses as discovery in this matter has not yet begun.

**DEFENDANT DEMANDS TRIAL BY STRUCK JURY.**

Respectfully submitted on January 19, 2012.



W. PEMBLE DELASHMET (MS #8840)  
wpd@delmar-law.com  
CHAD C. MARCHAND (MS# 102752)  
ccm@delmar-law.com  
Attorneys for Wal-Mart Stores East, LP

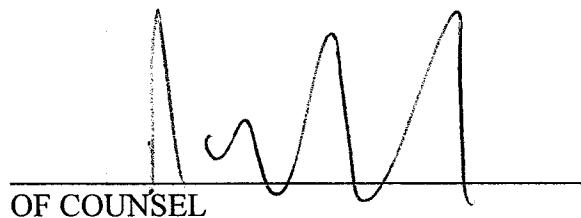
OF COUNSEL:

DELASHMET & MARCHAND, P.C.  
Post Office Box 2047  
Mobile, AL 36652  
Telephone: (251) 433-1577  
Facsimile: (251) 433-1578

CERTIFICATE OF SERVICE

I hereby certify that I have on this day January 19, 2012, served a copy of the foregoing pleading upon counsel as listed below by depositing the same in the U. S. Mail, postage prepaid and properly addressed.

Walter L. Nixon, Jr.  
Post Office Box 409  
Biloxi, MS 39533



OF COUNSEL

IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI  
SECOND JUDICIAL DISTRICT

SARAH OLIER

PLAINTIFF

VERSUS

CAUSE NO.: D2402-11-996

WALMART STORES, INC.

DEFENDANT

**SUMMONS**

THE STATE OF MISSISSIPPI  
COUNTY OF HARRISON

TO: Walmart Stores, Inc.  
702 SW 8<sup>th</sup> Street, Dept. 8687, M.S. #0555  
Bentonville, AR 72716

**NOTICE TO DEFENDANT**

The Complaint which is attached to this Summons is important and you must take immediate action to protect your rights.

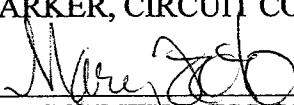
You are required to mail or hand-deliver a copy of a written response to the Complaint to **Walter L. Nixon, Jr.**, the Attorney for the Plaintiff, whose address is **Post Office Box 409, Biloxi, Mississippi 39533**.

Your response must be mailed or delivered within thirty (30) days from the date of delivery of this Summons and Complaint, or a judgment by default will be entered against you for the money or other things demanded in the Complaint. You must also file the original of your response with the Clerk of this court within thirty (30) days.

Issued under my hand and seal of said Court, this the 3rd day of January 2012.

GAYLE PARKER, CIRCUIT COURT CLERK

By:

  
D.C.  
HARRISON COUNTY, MISSISSIPPI  
Second Judicial District  
Post Office Box 235  
Biloxi, MS 39533  
(228) 435-8276  
(228) 435-68277 (Fax)

COPIED

IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI  
SECOND JUDICIAL DISTRICT

SARAH OLIER

VERSUS

WALMART STORES, INC.

**F I L E D**  
DEC 07 2011  
GAYLE PARKER  
CIRCUIT CLERK  
By *[Signature]* D.C.  
**COMPLAINT**

PLAINTIFF

CAUSE NO.: DA402-11-996

DEFENDANT

NOW COMES Plaintiff, SARAH OLIER, by and through her undersigned attorney, Walter L. Nixon, Jr., and files this her Complaint against the Defendant, WALMART STORES, INC., and in support hereof would show unto the Court the following:

I.

Plaintiff is, and was, at the time of her injuries which are the subject hereof, an adult resident citizen of the Second Judicial District of Harrison County, Biloxi, Mississippi.

II.

The Defendant, WALMART STORES, INC., is a Corporation organized and existing under the laws of the state of Mississippi, whose registered address is 702 SW 8th Street Dept. 8687, M.S. #0555, Bentonville, AR 72716, and whose registered agent for service of process is C T Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, MS 39232, where it may be served with process of this Court.

III.

On or about April 30, 2011 at approximately 4:30 p.m., Plaintiff was a business invitee of the Defendant, having gotten out of her vehicle into

Defendant's store in D'Iberville, leaving her vehicle in the parking lot and while approaching Defendant's store to shop, her right foot fell into a pot hole approximately thirty (30) feet from the entrance on Isle 4 and landed on her left knee, causing her to sustain serious injuries to her left knee requiring surgery as well as injury to her back. The serious injury to the knee resulted in swelling and pain. She went to the emergency room at Biloxi Regional Medical Center where she was initially treated, prescribed medication for pain and a muscle relaxer, and received medical advice. Her knee was placed in an ace bandage and she was told to call an orthopedist, which she did. In addition, she suffered a mild bilateral facet effusions and ligamentum flavum hypertrophy at L4-5; minimal bilateral L3-4; and L1-2 facet effusions, and moderate posterior disc protrusion and small left paracentral anular tear at L5-S1, as well as bilateral L5-S1 facet arthropathy.

#### IV.

Plaintiff saw an orthopedic surgeon but the extent of the damage to her knee could not be ascertained because it was swollen and painful. She was prescribed medication for inflammation and told to remain on the pain medicine she was prescribed in the emergency room and to keep ice on her knee. She was administered a cortisone shot in the left knee and was told to stay off it for an additional three (3) weeks and to continue to keep ice on it because she was still in a great deal of pain. She was then sent for an MRI. After the MRI was taken, which showed degenerative changes on the medial side, she underwent left knee surgery by Dr. Noblin, which consisted of arthroscopy of the left knee and debridement of the medial femoral condyle and patellar chondroplasty under

general anesthesia at the Cedar Lake Surgery Center. The operation showed an incision of a fairly large plica that occurred immediately and went into the intermeniscal.

**V.**

Plaintiff's injury to the left knee was very painful. She still suffers pain at this time. In addition, she suffers pain from disc injuries revealed in an MRI.

**VI.**

Plaintiff has incurred large medical bills for treatment of her injuries, in particular the surgery, and was unable to work for a long period of time at Keesler Federal Credit Union where she was employed at the time of her injury with lost wages. Plaintiff will continue to incur medical bills for treatment of the injuries in the future and future pain and suffering as a direct and proximate cause of her injuries.

**VII.**

Plaintiff's painful, permanent, and serious injuries, sufferings, and damages and loss of earnings were solely and proximately caused by the negligence of the Defendant; more specifically, Defendant failed to fulfill its non-delegable duty to Plaintiff as a business invitee to furnish her with a reasonably safe place in which to walk and shop without permitting set pot hole, a dangerous condition, to exist in an area approximately thirty (30) feet from the main entrance where patrons walk to and from their vehicles. In addition, Defendant failed to adequately warn Plaintiff and other business invitees of the existence of the above dangerous condition by placing signs or safeguards around it to adequately warn of its existence which it

knew or in the exercise of reasonable care, should have known presented a hazard and danger to patrons of the store who would be entering and exiting for the purpose of shopping therein. More specifically, the Defendant owed Plaintiff a duty as a business invitee to furnish its customers and patrons, including Plaintiff, with a relatively safe place in which to walk and in addition, failed to adequately warn of the existence of the above dangerous conditions or take any steps to safeguard it.

**VIII.**

Plaintiff's foregoing injuries have interfered with her ability to perform her daily tasks, exercise, and enjoy life which she was able to do prior to her injury.

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff SARAH OLIER files this, her suit against the Defendant and demands Judgment of and from the Defendant in an amount which will fully and fairly compensate her for all of her above injuries, sufferings, and damages, past, present, and future, together with all costs of this proceeding.

RESPECTFULLY SUBMITTED,

SARAH OLIER, PLAINTIFF

By: Walter L. Nixon  
WALTER L. NIXON JR., ESQ.

*PREPARED AND PRESENTED BY:*

WALTER L. NIXON, JR., ESQUIRE  
MS BAR No: 3865  
POST OFFICE Box 409  
BILOXI, MS 39533  
TELEPHONE: 228-435-7733  
FACSIMILE: 228-435-7737



**Gayle Parker, Circuit Clerk**

**DUPLICATE**

PO BOX 235  
730 Dr. Martin Luther King Blvd  
Biloxi, MS 39533  
(228) 435-8232

Received From: Nixon, Walter L. Jr.  
Po Box 409  
Attorney At Law  
BILOXI, MS 39533

Date: 12/28/2011  
Receipt #: **18966**

Clerk: KJS

Paying for: Olier, Sarah

Reference #: 9365

Transaction Type: Civil

Original Case #:

Payment Type: Check

Comment:

Total Paid

\$126.00  
\$126.00

Case #	Caption	Previous Balance	Amount Paid	Balance Due
D24021100996	Sarah Olier vs Walmart Stores, Inc	\$126.00	\$126.00	\$0.00